

Note: This preliminary draft of Singapore's Financial Services Annex is subject to changes and additions.

**U.S. – SINGAPORE FREE TRADE AGREEMENT
FINANCIAL SERVICES ANNEX - SINGAPORE**

HEADNOTES

1. Commitments under the Chapter on Financial Services are undertaken subject to the limitations and conditions set forth in these headnotes and the schedule below.

2. To clarify Singapore's commitment with respect to Article 10.4(b) of the Agreement (Market Access), juridical persons supplying financial services are subject to non-discriminatory limitations on juridical form¹.

3. (A) Solely in the context of future liberalization of its banking sub-sector and not for purposes of affording protection to local financial institutions within the banking sub-sector, Singapore may impose new non-conforming measures on a most-favored-nation basis. Such measures may include, but are not limited to:

- (a) requirements regarding the composition of boards of directors of banks and finance companies; and
- (b) limitations on the number of customer service locations of finance companies,

provided that any such non-conforming measure shall not derogate from commitments undertaken by Singapore in [Section __ of its Schedule/Paragraphs __ of its Specific Commitments/this Agreement] to liberalize quantitative restrictions on the number of licenses or customer service locations for U.S. banks or establish time periods for allowing U.S. banks access to any ATM network in Singapore.

[(B) Where a U.S. financial institution chooses not to participate in a future liberalization described in paragraph (A), Singapore shall not apply any related new non-conforming measure or take any adverse action with respect to the institution.]

(C) If Singapore imposes any new non-conforming measure described in paragraph (A), it will:

- (a) notify the United States of its intent at least three months in advance of implementation of the measure;

¹ For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in Singapore. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Subject to Legal Review for Clarity and Consistency

- (b) consult with the United States concerning the measure and give due consideration to the views expressed by the United States in this respect; and
- (c) make compensatory adjustments to its [Schedule] [Annex] with respect to the same class of financial institutions of the banking sub-sector as are affected by the measure such that the general level of commitments is more favorable to trade in the banking sub-sector than prior to the new measure².

(D) In connection with the liberalization of the 20% aggregate foreign shareholding limit in finance companies effected on 11 December 2002, Singapore reserves the right to introduce a 12% approval threshold for acquisition of shareholdings or voting control in finance companies. Paragraph (C) shall not apply to this measure.

4. (A) Singapore reserves the right to require a foreign bank that is systemically important to incorporate within Singapore, provided that such a requirement is applied in a reasonable, objective, and impartial manner. Before imposing such a requirement, Singapore will take into account such factors as the quality of home country regulation and supervision over the bank, degree of protection accorded to depositors in the home country vis-à-vis depositors in Singapore, and the amount of assets held or situated in Singapore.

(B) Singapore shall not impose the requirement described in paragraph A with respect to a foreign bank of the United States, unless it:

- (a) notifies the bank and the United States of its intent at least six months before imposing the requirement;
- (b) consults with the United States concerning the requirement and gives due consideration to the views expressed by the United States in this respect; and
- (c) allows the bank a reasonable time to comply with the requirement.

5. Reservations with references to any enterprise or entity apply equally to the successor enterprise or entity.

² It is understood that compensatory adjustments shall not be regarded as inadequate solely because the general level of commitments after the introduction of the new measure is not significantly more favorable to trade in the banking sub-sector than prior to the introduction of the measure.

BANKING

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19 MAS Notice 619
Description:	<p>No new full bank licenses will be granted to foreign banks.</p> <p>Qualifying Full Bank privileges are limited to 6 foreign banks. Quantitative limits on the number of licenses with Qualifying Full Bank privileges will be lifted for U.S. banks 18 months after the date of entry into force of this Agreement.</p> <p>No foreign bank can have more than one customer service location, establish off-premise ATMs, establish ATM networking or provide debit services through an Electronic Funds Transfer at Point of Sale (EFTPOS) network except that U.S. banks with Qualifying Full Bank privileges (QFBs) are allowed to:</p> <ul style="list-style-type: none"> (a) establish up to 30 customer service locations upon entry into force of this Agreement; (b) establish any number of customer service locations 2 years after the date of entry into force of this Agreement; (c) establish an ATM network among QFBs; and (d) provide debit services through an Electronic Funds Transfer at Point of Sale (EFTPOS) network. <p>No foreign financial institution can participate in any ATM network operated by local banks except that: (a) U.S. banks with Qualifying Full Bank privileges and which are incorporated in Singapore will not be subject to this restriction 2 years and 6 months after the date of entry into force of this Agreement and will thereafter be permitted to negotiate for access to local banks' ATM networks on commercial terms; and (b) U.S. banks with Qualifying Full Bank privileges and which are not incorporated in Singapore will not be subject to this restriction 4 years after the date of entry into force of this Agreement and will thereafter be permitted to negotiate for access to local banks' ATM networks on commercial terms.</p>

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19 Central Provident Fund Act, Cap. 36
Description:	Only foreign banks with Qualifying Full Bank privileges may apply to provide Supplementary Retirement Scheme accounts and Central Provident Fund Investment Scheme accounts.

Subject to Legal Review for Clarity and Consistency

	Only foreign banks with Qualifying Full Bank privileges will be permitted to apply to accept fixed deposits under the Central Provident Fund Investment Scheme and Minimum Sum Scheme.
--	--

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19 MAS Notice 619
Description:	<p>Only a maximum of 20 new Wholesale Bank licenses will be granted by the Monetary Authority of Singapore between 30 June 2001 and 30 June 2003. Quantitative limits on the number of Wholesale Bank licenses will be removed for U.S. banks 3 years after the date of entry into force of this Agreement.</p> <p>Wholesale Banks are not permitted to:</p> <ul style="list-style-type: none"> (a) accept Singapore dollar fixed deposits of less than S\$250,000; (b) offer savings accounts; (c) operate interest-bearing Singapore dollar current accounts for natural persons who are Singapore residents; (d) issue Singapore dollar bonds and negotiable certificates of deposit, unless requirements pertaining to minimum maturity period, minimum denomination or class of investors contained in the Guidelines for Operation of Wholesale Banks issued by the Monetary Authority of Singapore are complied with.

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19 MAS Notice 619
Description:	<p>Offshore Banks are not permitted to:</p> <ul style="list-style-type: none"> (a) provide credit facilities to non-bank residents of Singapore in Singapore dollars exceeding a total of S\$500 million at any one time; (b) offer savings accounts; (c) accept any fixed or other interest-bearing deposits in Singapore dollars from non-bank residents of Singapore; (d) operate current accounts for non-bank residents unless the accounts are offered: <ul style="list-style-type: none"> i) in connection with credit facilities granted to, or other business dealings with the customer; or ii) to customers of the bank's head office. (e) operate interest-bearing Singapore dollar current accounts for natural

Subject to Legal Review for Clarity and Consistency

	<p>persons who are Singapore residents;</p> <p>(f) accept Singapore dollar fixed deposits of less than S\$250,000 from non-bank non-residents;</p> <p>(g) issue Singapore dollar bonds and negotiable certificates of deposit, unless requirements pertaining to minimum maturity period, minimum denomination or class of investors contained in the Guidelines for Operation of Offshore Banks issued by the Monetary Authority of Singapore are complied with.</p>
--	---

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19 Monetary Authority of Singapore Act, Cap. 186
Description:	<p>No foreign person shall acting alone or in concert with other persons, assume control of any Singapore incorporated bank (other than a Singapore incorporated bank that is already controlled by a U.S. financial institution) or a company belonging to a class of financial institutions approved as financial holding companies under section 28 of the Monetary Authority of Singapore Act (referred to as "financial holding company").</p> <p>Approval from the Minister is required before a person (together with associated persons) is allowed to acquire indirect control over and shareholdings or voting control of or exceeding 5%, 12% and 20% in a Singapore incorporated bank or a financial holding company, and before a Singapore incorporated bank or a financial holding company is allowed to be merged or taken over by any other body.</p> <p>In approving applications to exceed the threshold limits, the Minister may impose conditions it considers necessary to prevent undue control, protect public interests, and ensure the integrity of the financial system.</p> <p>A foreign person is a person that is:</p> <p>(a) in the case of a natural person, not a citizen of Singapore; and</p> <p>(b) in the case of a corporation, not controlled by citizens of Singapore.</p>

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Monetary Authority of Singapore Act, Cap 186 Directives to Merchant Banks
Description:	No Merchant Bank may have more than one customer service location.

Subject to Legal Review for Clarity and Consistency

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Finance Companies Act, Cap. 108
Description:	<p>No new finance company licenses will be granted.</p> <p>A finance company must be established as a Singapore incorporated company.</p> <p>Finance companies are not permitted to establish off-premise ATMs, ATM networking, participate in any local ATM network or allow their accounts to be debited through an Electronic Funds Transfer at Point of Sale (EFTPOS) network.</p>

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Finance Companies Act, Cap. 108
Description:	<p>No foreign person shall acting alone or in concert with other persons, assume control of any finance company.</p> <p>Approval from the Monetary Authority of Singapore is required before a person (together with associated persons) is allowed to acquire shareholdings or voting control in a finance company of or exceeding 5% and 20%, and before he obtains effective control of the finance company.</p> <p>In approving applications to exceed the threshold limits, the Monetary Authority of Singapore may impose conditions it considers necessary to prevent undue control, protect public interests, and ensure the integrity of the financial system.</p> <p>A foreign person is a person that is:</p> <p>(a) in the case of a natural person, not a citizen of Singapore; and</p> <p>(b) in the case of a corporation, not controlled by citizens of Singapore.</p>

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Money-Changing and Remittance Businesses Act, Cap. 187

Subject to Legal Review for Clarity and Consistency

Description:	Remittance shops and money-changing businesses, except where the remittance or money-changing business is conducted by banks, merchant banks and finance companies, must be more than 50% owned by Singapore citizens.

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Banking Act, Cap. 19
Description:	Only the clearing house established under the Banking Act may provide clearing services for cheques and other credit instruments which are drawn on a bank in Singapore, whether payable in Singapore dollars or other currency, and services for interbank GIRO transfers.

Type of Reservation:	Most Favored Nation Treatment
Level of Government:	National
Measures:	Currency Interchangeability Agreement between Singapore and Brunei 1967
Description:	<p>The currency issuing authorities of Singapore and Brunei agreed, under the Currency Interchangeability Agreement between Singapore and Brunei 1967, to:</p> <p>(a) accept from banks, notes and coins issued by the other issuing authority, at par and without charge and to exchange such notes and coins into the currency of the country concerned; and</p> <p>(b) arrange for repatriation at the expense of the respective currency issuing authority, the notes and coins issued by the other currency issuing authority and to receive at par the equivalent in any agreed currency.</p>

SECURITIES

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Banking Act, Cap. 19
Description:	Banks and merchant banks are required to establish separate subsidiaries incorporated in Singapore to trade financial futures for customers.

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Banking Act, Cap. 19
Description:	Banks' and merchant banks' membership on any securities exchange or futures exchange established in Singapore must be held through subsidiaries incorporated in Singapore..

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Companies Act (Chapter 50) Part IV Division 7A
Description:	Only the Central Depository (Pte) Ltd is authorized to provide securities custodial services for book-entry securities.

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Admission Criteria, Guidelines and Application Forms for Fund Management and Insurance Companies included under CPFIS

Subject to Legal Review for Clarity and Consistency

Description:	<p>In considering the admission of Fund Management Companies (FMCs) under the Central Provident Fund Investment Scheme (CPFIS), the Central Provident Fund Board takes into consideration the following factors:</p> <p>a) whether the FMC has a minimum one-year track record as a capital markets services license holder under the Securities and Futures Act 2001 (or its equivalent under the Securities Industry Act, Cap. 289) in the fund management industry in Singapore while the group as a whole has a minimum of 3 years track record in fund management;</p> <p>b) whether the FMC manages at least S\$500 million worth of funds in Singapore; and</p> <p>c) whether the FMC has a minimum of 3 fund managers, one of whom must have at least 5 years of fund management experience. For the purpose of this reservation, the definition of “fund manager” shall include portfolio managers, research analysts and traders.</p>
--------------	---

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Securities and Futures Act 2001 (No 42 of 2001), Part IV Div 1
Description:	Capital markets services license holders must be a Singapore incorporated company or a foreign company with a branch office in Singapore.

INSURANCE

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Insurance Act, Cap 142
Description:	Insurance brokers must be established as a Singapore incorporated company.

Type of Reservation:	Market Access
Level of Government:	National
Measures:	Insurance Act, Cap. 142
Description:	A captive insurer must be established as a Singapore incorporated company.

Type of Reservation:	National Treatment
Level of Government:	National
Measures:	Admission Criteria, Guidelines and Application Forms for Fund Management and Insurance Companies included under CPFIS
Description:	<p>In considering the admission of Insurers under the Central Provident Fund Investment Scheme (CPFIS), the Central Provident Fund Board takes into consideration the following factors:</p> <p>a) whether the insurer has a minimum one-year track record as a licensed insurer in Singapore;</p> <p>b) whether the insurer employs a minimum of three fund management staff, one of whom must have at least five years of fund management experience. The other two may only have two years of fund management experience if he or she:</p> <ul style="list-style-type: none"> i) is a fully qualified Chartered Financial Analyst (CFA), or ii) is an Associate of the Society of Actuaries, or iii) holds a Certificate in Finance and Investments from the Institute of Actuaries, or iv) holds an equivalent qualification from any of the professional actuarial bodies recognised in Singapore; and <p>c) whether the insurer manages at least S\$500 million worth of funds in Singapore.</p>

Subject to Legal Review for Clarity and Consistency

	For the purpose of this reservation, the definition of “fund management staff” shall include portfolio managers, research analysts and traders.
--	---

Type of Reservation:	Cross Border Trade
Level of Government:	National
Measures:	Motor Vehicles (Third Party Risks and Compensation) Act, Cap. 189 Workmen’s Compensation Act, Cap. 354
Description:	Compulsory insurance of Motor Third Party Liability and Workmen’s Compensation can only be purchased directly or through an intermediary from licensed insurance companies in Singapore.

Type of Reservation:	Cross Border Trade
Level of Government:	National
Measures:	Insurance Act, Cap. 142, Financial Advisors Act 2001
Description:	The placement of domestic risks outside Singapore by brokers is subject to approval by the Monetary Authority of Singapore, with the exception of reinsurance risks and insurance risks relating to maritime liabilities of ship owners insured by protection and indemnity clubs.

DRAFT
Subject to Legal Review for Clarity and Consistency

12

ALL SECTORS

Type of Reservation:	Market Access and National Treatment
Level of Government:	National
Measures:	Companies Act, Cap. 50, Part IV Division 7A Securities and Futures Act 2001, Part III Banking Act, Cap. 19, Section 59
Description:	Clearing and settlement services for exchange-traded securities and financial futures and inter-bank transfers can only be provided by Central Depository (Pte) Limited, Singapore Exchange Derivatives Clearing Ltd, and Banking Computer Services Pte Ltd respectively.

Type of Reservation:	Cross-Border Trade
Level of Government:	National
Measures:	Insurance Act, Cap. 142 MAS Notice 109, Banking Act, Cap.19 MAS Notice 757, Finance Companies Act, Cap. 108, MAS Notice 816, Monetary Authority of Singapore Act, Cap. 28, MAS Notice 1105, Securities Industry Act, Cap. 289, MAS Notice 1201 / Securities and Futures Act 2001 (Act 42 of 2001) MAS Notice 1201
Description:	<p>1. Financial institutions extending Singapore dollar (S\$) credit facilities exceeding S\$5 million per entity to non-resident financial entities or arranging S\$ equity or bond issues for non-residents, must ensure that where the S\$ proceeds are to be used outside Singapore, they are swapped or converted into foreign currency upon draw-down or before remittance abroad.</p> <p>2. Financial institutions should not extend S\$ credit facilities to non-resident financial entities if there is reason to believe that the S\$ proceeds may be used for S\$ currency speculation.</p> <p>The term “non-resident” is as defined in MAS Notice 757 issued under the Banking Act.</p>